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Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women
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Agenda item 5
Implementation of article 21 of the Convention on the Elimination of All Forms of Discrimination against Women

Reports provided by specialized agencies of the United Nations on the implementation of the Convention in areas falling within the scope of their activities

Note by the Secretary-General

Addendum

International Labour Organization

1. On behalf of the Committee, on 18 November 1999, the Secretariat invited the International Labour Organization (ILO) to submit to the Committee, by 20 December 1999, a report on information provided by States to ILO on the implementation of article 11 and related articles of the Convention on the Elimination of All Forms of Discrimination against Women, which would supplement the information contained in the reports of the States parties to the Convention to be considered at the twenty-second session.

2. Other information sought by the Committee refers to activities, programmes and policy decisions undertaken by ILO to promote the implementation of article 11 and related articles of the Convention.

3. The report annexed hereto has been submitted in compliance with the Committee's request.

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Annex

Report of the International Labour Organization under article 22 of the Convention on the Elimination of All Forms of Discrimination against Women

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I. Introduction

The provisions of article 11 of the Convention on the Elimination of All Forms of Discrimination against Women are dealt with in a number of ILO Conventions. Of the 182 Conventions adopted so far, the information in the attached report relates principally to the following:

- Equal Remuneration Convention, 1951 (No.100), which has been ratified by 143 member States;
- Discrimination (Employment and Occupation) Convention, 1958 (No.111), which has been ratified by 140 member States;
- Workers with Family Responsibilities Convention, 1981 (No.156), which has been ratified by 29 member States.

Where applicable reference is made to a number of other Conventions which are relevant to the employment of women:

Forced Labour

- Forced Labour Convention, 1930 (No. 29)
- Abolition of Forced Labour Convention, 1957 (No. 105)

Child Labour

- Minimum Age Convention, 1973 (No. 138)
- Worst Forms of Child Labour Convention, 1999 (No. 182)

Freedom of Association

- Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)
- Right to Organize and Collective Bargaining Convention, 1949 (No. 98)

Employment policy

- Employment Policy Convention, 1964 (No. 122)
- Human Resources Development Convention, 1975 (No.142)

Maternity protection

- Maternity Protection Convention, 1919 (No.3)
- Maternity Protection Convention (Revised), 1952 (No.103)

Night Work

- Night Work (Women) Convention (Revised), 1948, (No.89) [and Protocol]
- Night Work Convention, 1990 (No.170)

Underground Work

- Underground Work Convention, 1935 (No.45)

Part time work

- Part-Time Work Convention, 1994 (No.175)

Home work

- Home Work Convention, 1996 (No. 177)

The application of ratified Conventions is supervised in the ILO by the Committee of Experts on the Application of Conventions and Recommendations (CEACR), a body of independent experts from around the world, which meets annually. The information submitted in Part II of the present report consists of observations and direct requests made by the Committee. Observations are comments published in the CEACR's annual report - produced in English, French and Spanish - which is submitted to the International Labour Conference. Directs requests (produced in English and in French - and in the case of Spanish-speaking countries, also in Spanish) are not published in book form, but are made public. At a later date, they are published on the ILO's data base of supervisory activities, ILOLEX (available on line or on CD Rom).

II. Indications concerning the situation of individual countries

Belarus

Position in regard to ILO Conventions relating to women

I. Among the relevant ILO Conventions, Belarus has ratified Conventions Nos. 100 and 111. It has also ratified Conventions Nos. 29, 45, 87, 98, 103, 105, 122, and 142.

II. **Comments by the ILO supervisory bodies**. The pending comments of the ILO Committee of Experts on matters relevant to the provisions of CEDAW relate to:

Convention No. 100: A direct request of 1998 to the Government noted that the wage gap between men and women, particularly in the sectors of industry and construction, had decreased, but that the wage gap had widened in the area of education and particularly in agriculture. The Committee requested the Government to provide data that might indicate the factors underlying the widening of the wage gap in these sectors. It also requested statistical data on the distribution of men and women by occupation and rank in the various sectors as well as an indication of their average hourly wages. The Committee noted that, according to the Government, remuneration in Belarus was established in accordance with common rates which were approved by the Ministry of Labour and which took into account the factors set out in the Labour Code. The Committee recalled that the criteria used for the appraisal of jobs should not undervalue skills normally required for jobs that were in practice performed by women. Accordingly, the Government was asked to provide information on the criteria and methodology used to ensure that the wage rates gave equal consideration to factors present in the jobs undertaken by women. Statistical data supplied by the Government further showed that despite women's higher level of education than men (with 58.6 per cent of them having a university education) in a number of sectors referred to by the Government, they continued to hold a lower share of managerial and senior positions in various sectors of the national economy (e.g. in the industrial sector, women held 35.9 per cent of managerial posts, despite the fact that they accounted for 54.2 per cent of employees in this sector having special technical education). The Committee requested the Government to supply information on the progress of its activities in reducing the wage gap and particularly regarding studies that might indicate the factors accounting for women's lower share of managerial or positions.

Convention No. 111: In a direct request of 1997, the Committee noted that the draft Labour Code had been approved by the Supreme Soviet in 1996 and was being examined in light of constitutional amendments. It further noted that the Government, in the framework of its policy to promote equality of opportunity and treatment for all, had adopted national plans of action to improve the situation of women for 1996-2000 as well as a national programme called *The Women of the Republic of Belarus*. The programme contained measures to improve the situation of women in the labour market, prevent female unemployment and increase their competitiveness. The Committee requested the Government to supply details on the concrete measures taken and the results obtained by these programmes, from the point of view of access to jobs, access to vocational training and terms and conditions of employment. The Committee further observed that the Government intended to fight discrimination against women in employment by stressing education and training. The Government indicated in its report that new

training had been introduced to develop those occupations seen to be "female" (farmers, secretary and typist with foreign languages, embroiderer and weavers) because greater diversity of occupations increased opportunities to find jobs. The Committee stressed the importance of training free from archaic attitudes and stereotypes that categorize jobs or occupations as "male" or "female". It requested the Government to indicate the measures taken or envisaged to ensure that, in practice, education, vocational training and vocational guidance of girls and women were not restricted to the traditional areas of activity considered to be appropriate for them. It also recommended the Government to encourage women and girls to consider employment in sectors other than health, education and culture where they were already over-represented.

Burkina Faso

Position in regard to ILO Conventions relating to women

I. Among the relevant ILO Conventions, Burkina Faso has ratified Conventions Nos. 100 and 111. It has also ratified Conventions Nos. 3, 29, 87, 98 and 105.

II. **Comments by the ILO supervisory bodies**: The pending comments of the ILO Committee of Experts on matters relevant to the provisions of CEDAW relate to:

Convention No. 3: A direct request to the Government in 1998 noted that the new provisions relating to maternity protection of Act No. 1/92/ADP of 1992 concerning the Labour Code, no longer referred to the prohibition of employment of a woman for a period of six weeks after confinement. Consequently, the Committee requested the Government to indicate the measures taken or envisaged with a view to ensuring that a woman would not be allowed to work for a period of six weeks following her confinement.

Convention No. 29: In a direct request of 1998, the Committee of Experts commented on the situation of household employment of children, who in Burkina Faso are mostly girls. The Committee noted that the revision of the Penal Code would take account of new forms of exploitation, including certain situations of slavery-like situations such as household employment of children without any particular status and without adequate remuneration. The Government indicated in this regard that unlawful wages were still the most widespread form of exploitation of child labour. The Committee also noted the information contained in the report submitted by Burkina Faso to the United Nations Committee on the Rights of the Child in which the Government indicated that it was difficult to keep a check on the limits of the employment of young people at home, in the family and in the community in a difficult social and economic context, both for young people and adults, and that, Burkina Faso being an agricultural and an underdeveloped country, children were frequently called on at an early age to work long hours often in activities which are beyond their strength. The Committee also noted Order No. 539/ITLS/HV of 29 July 1954 concerning child labour in all establishments of whatever nature and in households, which contains detailed provisions to ensure the protection of working children, and Order No. 545/GTL/HV of 2 August 1954 which prohibits the employment of children under the age of 14 for more than four-and-a-half hours in all per day. It asked the Government to provide detailed information on any measures taken to ensure that effect is given

to the provisions of the above-mentioned Orders.

Convention No. 100: In a direct request of 1998, the Committee noted the Government's information that the Committee's comments regarding section 104 of the Labour Code (which stipulates that *where there are equal working conditions, professional qualifications and output, the salary shall be equal for all workers no matter what their origin, sex, age or status under the conditions laid down in this part of the Code*) had been taken into account in the process of revising the Labour Code, which was under way. It also noted that the establishment of a national job-classification system finally began in 1997, and that the Government confirmed its wish for ILO technical assistance. In this regard, the Committee wished to emphasize that some form of objective job evaluation was the only means of establishing differential rates and that it was therefore important to adopt a technique for measuring and comparing objectively whether jobs involving different work had, nevertheless, the same *value* for the purposes of remuneration. The Committee reiterated the wish that the Government — as well as employers' and workers' organizations — would endeavour to collect the necessary information in order to be aware precisely of the nature and extent of any inequalities in remuneration and to prepare measures to eradicate them, if necessary.

Convention No. 111: In a 1997 direct request to the Government, the Committee noted from information received from the CERD that the percentage of women in the public service had increased from 22 per cent in 1993 to 34 per cent in 1994 and that they were highly represented in the education sector (57 per cent), but highly under-represented in the finance sector (3.2 per cent). From the Government's report on the Convention, the Committee noted that a draft Act on vocational guidance and vocational training was being drawn up on the basis of the framework policy document on employment and vocational training and that national plans of action for employment were being adopted. The Committee hoped that these various documents would take account of all aspects of the national policy to promote equality of opportunity and treatment in employment and occupation including general measures (such as enforcement procedures through the courts, and affirmative action) to give concrete implementation to this policy. It looked forward to receiving information, accompanied by statistics, on the results already obtained in the implementation of the action plans.

Democratic Republic of the Congo

Position in regard to ILO Conventions relating to women

I. Among the relevant ILO Conventions, the Democratic Republic of Congo has ratified Convention No. 100. It has also ratified Conventions Nos. 29, 87, 89 and 98.

II. **Comments by the ILO supervisory bodies**: The pending comments of the ILO Committee of Experts on matters relevant to the provisions of CEDAW relate to:

Convention No. 100: In a direct request of 1998, the Committee noted with interest that the National Inter-Occupational Collective Labour Agreement, adopted in 1995, no longer provided that only unmarried women or women whose husbands were engaged in no known employment were entitled to all the benefits contained in the collective agreement. The Committee,

nevertheless, asked the Government to provide information on the application of the principle of equal remuneration to statutory family allowances, health care, travel expenses and other benefits accorded exclusively with a view to facilitating the discharge by workers of their functions, since all these elements are excluded from the definition of remuneration contained in section 4(h) of the Labour Code. Furthermore, the Committee requested the Government to provide information on the measures taken during the revision of the Labour Code so that section 4(h) was brought into conformity with the Convention.

Having noted that section 72 of the Labour Code refers to "equal conditions of work, vocational qualifications and output", the Committee also requested the Government to provide information on the measures that had been taken to achieve in practice equal remuneration for men and women workers, particularly where their work is of a different nature but of equal value. In this respect, the Committee drew the Government's attention to the fact that the criterion of output may lead to the emergence of different wage groups as a function of the average output of each sex. The Committee further noted that the National Collective Labour Agreement provided for the determination of wage scales by national, regional or enterprise collective agreements, and drew the attention of the Government and of employers' and workers' organizations to the value of establishing systems for the objective appraisal of jobs in order to compare the value of the work performed. It hoped that the Government would be in a position to provide detailed information on any system for the appraisal of jobs adopted in the public and private sectors. Finally, the Committee once again hoped that in the near future the Government would be in a position, with the cooperation of employers' and workers' organizations and any other appropriate body, to compile and analyse statistics on minimum wage rates and the average real earnings of men and women with a view to obtaining more detailed knowledge of the nature and scope of current wage inequalities and the measures for their elimination.

Germany

Position in regard to ILO Conventions relating to women

I. Among the relevant ILO Conventions, Germany has ratified Conventions Nos. 100 and 111. It has also ratified Conventions Nos. 3, 29, 45, 87, 98, 105, 122 and 142.

II. Comments by the ILO supervisory bodies: The pending comments of the ILO Committee of Experts on matters relevant to the provisions of CEDAW relate to:

Convention No. 3: In a 1998 direct request, the Committee noted that, in order to guarantee the equivalent of their previous wage during maternity leave, women workers covered by health insurance received a maternity allowance provided by the health insurance and a supplementary benefit from the employer (provided for under section 14(1) of the Maternity Protection Act). According to the Government, the supplementary benefit provided by the employer was significantly higher than the allowance paid by the health insurance. The Committee also noted that a 1995 ruling by the Federal Labour Court recognized that the cost to the employer of the supplementary benefit had significantly increased and that the negative impact on the employment opportunities of young women could not be ignored. It recalled that it was precisely to prevent maternity protection measures leading to discrimination in the employment of women

that the Convention provided that benefits paid to a woman during her maternity leave should be provided either out of public funds or by means of a system of insurance.

Further with respect to the amount of the benefits, the Committee noted with interest that new regulations, which came into force on 1 January 1997, were intended to improve the employment prospects of young women in small enterprises which regularly employ fewer than 20 workers, a number which may be raised to 30 in certain specific cases. Under these new provisions, the respective health insurance institutions reimburse to these employers the total costs related to maternity protection. The Committee hoped that the Government would be able to re-examine the matter with regard to medium and large enterprises and requested information on any reimbursement that was made for maternity benefits provided by the employer, in the case of women who were not insured under the statutory sickness insurance scheme, and particularly for women whose wage exceeded a certain level.

The Committee further noted that section 9(3) of the Maternity Protection Act, as amended, still permitted the highest authority in the Land responsible for labour law to declare, in certain exceptional cases, that the dismissal of a woman during pregnancy or up to four months after her confinement was legal. It recalled that the Convention prohibits the dismissal of a woman during her maternity leave, and that it makes no reference to the possibility of authorizing dismissal in certain specific circumstances, for which any grounds may be considered legitimate.

Convention No. 100: In an observation of 1998, the Committee noted that the difference between male and female representation in the workforce of the producing industries, especially in the categories of skilled and unskilled work had only slightly improved, and that a wage gap between men and women within these different categories continued to exist. The Government was asked to provide information on what measures had been taken or contemplated to bring about a more balanced representation of men and women in the skilled and unskilled categories of the producing industries, and to reduce the wage gap. It further noted from the Government's report that 26 collective agreements still contained "light wage categories", and that, between 1990 and 1995, the number of women in "light wage categories" was reduced by almost half, while the number of men increased by over 60 per cent. The Committee also noted the view, long maintained by the Federal Government, that the mere existence of "light wage categories" in certain collective agreements was no indication of whether or not women's work was actually undervalued and that this was demonstrated by the fact that not only women, but to an increasing extent, men were placed in these categories. The Committee recalled that the most recent jurisprudence of the Federal Labour Court ensured that a higher classification could be obtained for jobs which, while physically lighter, involved mental and nervous strain; and that the category of "physically arduous work", which was better paid, also included jobs which involved not only muscular but other strain on human beings which could result in physical reactions. The Committee again expressed the hope that the Government would pursue more specific and practice measures to encourage the social partners to take account of such rulings when determining classification criteria of unskilled activities in their collective agreements.

Convention No. 111: In an observation of 1997, the Committee noted with interest from the Government's third report (1992-94) on the situation of women in the federal administration that, while the actual total number of civil servants had diminished, the trend to increased percentages of women in higher grades and posts of responsibility continued. At the same time, it noted with concern that, although the actual number of public officials had slightly increased, the percentage of women in the highest band (Höherer Dienst) had dropped from 51.4 per cent in 1990-91 to 39.1 per cent in 1993-94, implying that men were filling the new higher level public employee *(Angestellte)* posts. The third report also showed that family-friendly policies continued to expand with a view to enabling women's career progression. The Committee looked forward to receiving, with the Government's next report (1996-1998) on the situation of women, the

document tabled in Parliament on the impact of the Second Equality Act and any other information on its application in practice. The Committee further noted the Government's statement with regard to the European Court of Justice decision in *Kalanke v. City of Bremen*, that the ruling had no impact on its policies since the Second Equality Act contained no provisions on automatic quotas for women, which was the subject-matter of that case. The Government confirmed that other affirmative action measures were not affected and remained both necessary and possible.

In response to the Committee's request for information on women's access to training, a 1997 direct request noted that according to 1994-1995 data, women accounted for almost 42 per cent of newly concluded training contracts, but that over 75 per cent of female apprentices were trained in commercial and services sectors, with only 8 per cent of all the female intake receiving training in traditional "male" occupations. The data further showed that only ten occupations — mostly technological in nature — were dominated by men. In addition, information from the surveys carried out by the Federal Vocational Training Institute, showed that, in 1995, 71 per cent of persons trained in enterprises were taken on in their chosen occupation immediately at the end of their apprenticeship, but that the number of job offers made to male-dominated industrial/technical occupations was higher than in female-dominated service sector occupations. The Government further pointed out that unemployment data indicated that in 1995-96 the number of women who sought vocational counselling amounted to about half of all job advice seekers. It stated that vocational counsellors were actively seeking training positions in enterprises for women and the broadening of occupational choice by wider training opportunities. In July 1996, the federal Government and new Länder and Berlin concluded the "Action Programme for Training Positions in the East" aimed at creating many new training places at workplaces through 1997. The Committee requested the Government to inform it of the activities and successes of its various initiatives. Finally, the Committee noted that, following a decision of the European Court of Justice on 22 April 1997, concluding on the ineffectiveness of compensation for damage under the Equal Treatment Act, the Government was preparing a Bill to ensure conformity of the national legislation with the European law.

India

Position in regard to ILO Conventions relating to women

I. Among the relevant ILO Conventions, India has ratified Convention No. 100, but not Convention No. 111. It has also ratified Conventions Nos. 29, 45, 89 and 122.

II. **Comments by the ILO supervisory bodies.**: The pending comments of the ILO Committee of Experts on matters relevant to the provisions of CEDAW relate to:

Convention No. 100: In an observation of 1998, the Committee of Experts noted the comment by the Centre of Indian Trade Unions (CITU) which maintained that the enforcement of the Equal Remuneration Act of 1976 was not functioning effectively and that the Equal Remuneration Committee was no longer operational. The CITU pointed out that the Act of 1976 was not applied to all of the industries in the formal and informal sector, including in the construction and in *beedi* industry. There was also a need to monitor the situation of women employed in the home-based industries; neither Convention No. 100 nor the Act was applied to women employed in the export processing zones, particularly in the garment industry. Noting the large number of inspections carried out to detect violations of the Act, the Committee requested the Government to indicate the manner in which violations of the Act were remedied as well as the operational

status and activities of the Equal Remuneration Committee. The Committee also reiterated its comments regarding the narrow scope of section 4 of the 1975 Act which limited the principle of equal remuneration to the same or similar work. It indicated that the judicial pronouncements cited by the Government, in particular in the *MacKinnon Case*, did not expand the scope of the Act, and requested the Government to modify section 4. The observation further noted with interest that in certain states, social welfare organizations had been empowered to bring equal pay complaints under the Act, and asked the Government to indicate any efforts made to encourage other states and union territories to do the same. The Committee also indicated that the Office would respond positively to the Government's request for assistance from the ILO.

Convention No. 111: In an observation and direct request of 1998, the Committee continued its dialogue on the Supreme Court ruling in *Vishaka and Ors v. the State of Rajasthan and Ors* which had set guidelines on sexual harassment, and any follow-up measures taken by the Government in this regard. It noted with interest the letter of the Secretary of Labour directing the central ministries, state governments and chief managing directors of public sector undertakings to follow the guidelines. It also noted the amendment of the Central Civil Service (Conduct) Rules, to add Rule 3C which expressly prohibited sexual harassment in the workplace. The Committee noted however that Rule 3C omitted a number of guidelines contemplated by the *Vishaka Ruling*: it did not provide for the creation of an appropriate complaint mechanism in the employers' organization to handle complaints nor did it establish appropriate penalties which may be imposed against the offender or set a specified time period within which the complaint must be processed. The Committee requested the Government to indicate whether it planned to include in the Central Civil Service Rules the additional criteria specified by the Supreme Court in the *Vishaka* ruling. The Committee further requested the Government to indicate whether any of the state governments and public sector bodies had amended their rules and regulations to comply with the court guidelines. Similarly, the Government was asked to indicate whether any relevant legislation, including the Industrial Employment (Standing Orders) Act, 1946, covering the private sector, had been enacted or amended to incorporate such guidelines. The Committee further welcomed the promulgation of Constitutional Amendment 73, which required 30 per cent of all elected offices in local bodies to be reserved for women, and asked information on its effective application. It requested information on the application of the Convention to women operating small business and on the manner in which the recommendations contained in the annual report of the National Commission on Women had been implemented, in particular the suggestions made with regard to education and vocational training. It noted with interest the development of the women's vocational training programmes, with the number of Industrial Training Institutes (ITIs) for women rising from 4 in 1950 to 458 in 1998. The Committee requested information on the implementation of the recommendation by the National Council for Vocational Training that 25 per cent of the seats be reserved for women candidates in general ITIs, and on the measures taken by the Director-General of Employment and Training to recruit women candidates as apprentices.

Jordan

Position in regard to ILO Conventions relating to women

I. Among the relevant ILO Conventions, Jordan has ratified Conventions Nos. 100 and 111. It has also ratified Conventions Nos. 29, 98, 105, 122, 138 and 142.

II. **Comments by the ILO supervisory bodies**: The pending comments of the ILO Committee of Experts on matters relevant to the provisions of CEDAW relate to:

Convention No.100: In a direct request of 1998, the Committee continued its comments on section 2 of the Labour Code of 1996 which excluded "overtime wage" from the definition of remuneration. The Committee expressed its concern about the manner in which the Government ensured equal payment to men and women of an overtime wage, and requested the Government to provide illustrations of pay slips for overtime hours of establishments employing male and female workers in work of equal value. With respect to allowances paid in the civil service under the Standards Allowance Scheme, the Committee, noting that the civil service laws and regulations concerning equality are under review, hoped that the Government would consider amendment of section 11 so as to ensure payment of family allowances to both men and women workers. The Committee further noted that the equality provision in the Jordanian Charter read in conjunction with the section 2 of the 1996 Labour Code, could constitute a basis for appropriate legislation granting the labour inspectorate the authority to conduct enforcement activities to ensure the application in practice of equal remuneration between men and women for work of equal value. The Committee noted that the Government had already taken steps in this direction with the establishment of a new department responsible for women working in the Ministry of Labour, and the appointment of nine female labour inspectors to enforce the implementation of the provisions of the Labour Code relevant to women workers and to provide women with consultative services. The Committee requested further information on the action taken in this respect. As regards the wage gap in the public sector and the application of sections 4 and 5 of the Civil Service Regulations (No. 1 of 1988), the Committee requested the Government, once again, to indicate the methods and criteria used by the Council of Ministers in establishing job classification plans, and by the separate departments in conducting an objective appraisal of posts. Having noted also in the past a wage gap of around 25 per cent in the public sector between the wage rates for men and women, the Government was asked to supply information on the measures taken or contemplated to reduce the wage gap between men and women in the public sector. Finally, the Committee noted that the amendment to the Social Security Act No. 30, proposed by the Legal Committee of the National Commission of Women, had not yet been adopted, and it hoped that progress would soon be made in this regard.

Convention No. 111: In a direct request of 1997, the Committee noted that certain sections of the National Charter were devoted to equality irrespective of sex, race, language or religion. The Committee further noted that section 69 of the 1996 Labour Code imposed restrictions on the employment of women with the aim of protecting their health, and requested the Government to provide information on any decision adopted to date on the basis of this section. The Committee noted with interest the work undertaken by the Jordanian National Committee for Women which, *inter alia*, conducted, through its Legal Committee, a comprehensive survey of all Jordanian laws and detailed studies on the aspects relating to women in these laws. Noting also that the National Committee adopted the first group of recommendations issued by the Legal Committee which were submitted, in part, to the Council of Ministers, the Committee requested the Government to provide information on the conclusions of the survey with regard to a number of legislative texts under review (see attached direct request). Further, in order to organize the labour market, the Ministry of Labour had adopted the principle of cooperation between the workers' and employers' organizations to encourage acceptance of the national policy against discrimination, and the Committee requested the Government to provide information on measures that have been taken to facilitate such cooperation. Finally, the Committee pointed out that certain provisions applicable to women to allow them to raise children or to care for them should increasingly be granted to men as well, so that the advantages granted cease to be an obstacle to women's competitiveness on the labour market. It suggested that the Government examine the possibility of extending to male workers, or granting to one of the two parents where both are employed, the right to one year's unpaid leave with reinstatement in their jobs, which is at present granted only to women workers under section 67 of the Labour Code.

Position in regard to ILO Conventions relating to women

I. Among the relevant ILO Conventions, Luxembourg has ratified Convention No. 100, but not Convention No. 111. It has also ratified Convention Nos. 3, 29, 45, 87, 89, 98, 103 and 105, and has denounced Conventions Nos. 45 and 89.

II. **Comments by the ILO supervisory bodies**: The pending comments of the ILO Committee of Experts on matters relevant to the provisions of CEDAW relate to:

Convention No. 100: In a direct request of 1998, the Committee noted with interest the adoption of the Act of 7 July 1998 amending: (1) the Act of 18 May 1979 (amended) constituting a reform of staff committees; and (2) the Act of 6 May 1974 (amended) establishing joint committees in private enterprises and organizing the representation of employees of corporations, envisaging the appointment of a minister for equality responsible for ensuring equal treatment between male and female workers with regard to access to employment, to training and to professional advancement, remuneration and working conditions. The Committee requested information in respect of the practical application of this legislation.

Myanmar

Position in regard to ILO Conventions relating to women

I. Myanmar has only ratified Conventions Nos. 29 and 87.

II. **Comments by the ILO supervisory bodies**: The pending comments of the ILO Committee of Experts on matters relevant to the provisions of CEDAW relate to:

Convention No. 29: In 1996, a complaint was submitted under article 26 of the ILO Constitution alleging failure of the Government of Myanmar to observe Convention No. 29. A Commission of Inquiry was established to examine the complaint. It completed its work in August 1998 and submitted a report to the Governing Body of the ILO at its 273rd (November 1998) Session (see attached Report of the Commission of Inquiry[1]). The Commission of Inquiry concluded that forced labour in Myanmar is widely performed by women[2], children and elderly persons as well as non-Burman ethnic groups, especially in areas where there is a strong military presence, and by the Muslim minority, including the Rohingyas. The Commission noted, for example, that when military troops arrived in a village to capture people at random to work, "women were liable to

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[1] Report of the Commission of Inquiry appointed under article 26 of the Constitution of the International Labour Organization to examine the observance by Myanmar of the Forced Labour Convention, 1930, (No. 29), *Official Bulletin,* Vol.LXXXI, 1998, Series B, Special Supplement (hereafter "Report of the Commission of Inquiry").

[2] *Ibid*, paras. 291, 302, 308, 317, 323, 334, 342, 343, 368, 375, 384, 416, 430, 437, 456 and 511.

be taken as porters if the troops could find no men. There were cases where pregnant women and nursing mothers were taken by force to work as porters." (Report of the Commission of Inquiry, para. 308). The Commission also noted cases of rape and sexual abuse of female porters (paras. 317 and 343). Noting the flagrant and persistent failure to comply with the Convention, the Commission urged the Government to take the necessary steps to ensure that the relevant legislative texts, in particular the Village Act and the Towns Act, be brought into line with the Convention at the very latest by 1 May 1999. Concrete action further needed to be taken immediately through public acts of the Executive promulgated and made known to all levels of the military and to the whole population. Moreover, penalties which may be imposed under section 374 of the Penal Code for the exaction of forced or compulsory labour needed to be strictly enforced.

In an observation of 1998, the Committee of Experts noted the conclusions and recommendations of the Commission of Inquiry, which confirmed and expanded its own previous conclusions, the findings of the Conference Committee on the Application of Standards in 1998, as well as the findings of the Governing Body on a previous representation (1994). The Committee requested the Government to provide detailed information on the measures taken and urged it to have recourse to the assistance of the International Labor Office in this effort. The Government was asked to supply full particulars to the Conference at its 87th Session and to report in detail in 1999.

At its March 1999 (274th) Session, the ILO Governing Body decided to request the Director General to submit a report to the Governing Body on or 21 before May 1999 on the measures taken by Government of Myanmar to comply with the recommendations of the Commission of Inquiry. The said Report is reproduced in Annex.

A discussion on the application of Convention No. 29 by Myanmar took place in the Committee on the Application of Standards of the International Labour Conference at its 87th Session in June 1999. The Conference Committee took note of the written and oral information supplied by the Government, and the discussion which followed. It noted in particular the Government's position that the findings of the Commission of Inquiry and the Committee of Experts had no basis, and that the Report of the Director-General of 21 May 1999, supplied to members of the Governing Body, on the measures taken by the Government to comply with the recommendations of the Commission of Inquiry, was based on false and misleading information. The Conference Committee also noted the issuance of Order No. 1/99 of 14 May 1999, directing that the power to requisition forced labour under the Towns Act, 1907, and the Village Act, 1907, not be exercised. It recalled the long history of the case and the series of actions taken by the ILO supervisory bodies, including the recommendations of the Commission of Inquiry established by the Governing Body. It considered that the explanations provided by the Government did not respond to the detailed and well-substantiated findings and recommendations of the Commission of Inquiry and the Committee of Experts. The Conference Committee noted with deep concern the findings of the Commission of Inquiry that there was convincing information available that forced and compulsory labor on a very large scale still occurred in Myanmar. It regretted that the Government had not allowed the Commission of Inquiry to visit the country to verify the situation for itself. It could also have been the occasion for the Government to present its own position before the Commission in a very objective and impartial manner. It regretted that the Government had shown no inclination to cooperate with the ILO in this respect. It called upon the Governing Body, the Committee of Experts and the Office to continue taking all possible measures to secure the observance by Myanmar of the recommendations of the Commission of Inquiry, which confirmed and expanded the Committee of Experts' own previous conclusions. The Conference Committee decided to include this case in a special paragraph in its report and to mention it as a case of continued failure to implement a ratified Convention.

At the same Session, the International Labour Conference adopted a resolution on the widespread use of forced labor in Myanmar (see annex) which resolved, among others, that the attitude and behaviour of the Government of Myanmar were grossly incompatible with the conditions and principles governing membership of the ILO. It also resolved that the Government of Myanmar should cease to benefit from any technical cooperation or assistance from the ILO, except for the purpose of direct assistance to implement immediately the recommendations of the Commission of Inquiry, and that it should only be invited to meetings and seminars that have the sole purpose of securing immediate and full compliance with the said recommendations, until such time as it has implemented such recommendations.

At its 276th Session (November 1999) the Governing Body of the ILO discussed the measures to be taken to give effect to the Conference resolution, including action taken under article 33 of the ILO Constitution to secure compliance by the Government of Myanmar with the recommendations of the Commission of Inquiry (see GB.276/6). It was recommended, among others, that a special item on action recommended by the Governing Body under article 33 of the Constitution would be placed on the agenda of the 88th Session of the International Labour Conference in June 2000 and that the Director-General would submit an updated report by February 2000 on the measures taken by the Government of Myanmar to give effect to the recommendations of the Commission of Inquiry. A final discussion on the inclusion of the point on the agenda of the Conference in June 2000, will be taken at the March 2000 session of the Governing Body.